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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,116	07/26/2001	Bruce E. Price	RGP-0062	8624
23413	7590	09/08/2006		
CANTOR COLBURN, LLP 55 GRIFFIN ROAD SOUTH BLOOMFIELD, CT 06002			EXAMINER CHANG, VICTOR S	
			ART UNIT 1771	PAPER NUMBER
DATE MAILED: 09/08/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/916,116

Applicant(s)

PRICE ET AL.

Examiner

Victor S. Chang

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2006 and 24 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-19 and 34-49 is/are pending in the application.
- 4a) Of the above claim(s) 46-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-19,34-45 and 49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Introduction

1. Applicants' amendments and remarks filed on 3/30/2006 and 7/24/2006 have been entered. Claims 1, 13 and 17 have been amended in the reply filed 3/30/2006. New claims 40-49 have been filed in the 7/24/2006 reply. Claims 1-4, 6-19 and 34-49 are active. A declaration by Mr. Brett Kilhenny, filed on 3/30/2006, has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

3. Newly submitted claims 46-48 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the specification discloses that Fig. 1 (claim 38) and Fig. 2 (claims 46-48) are different embodiments (species).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 46-48 are withdrawn from consideration as being directed to a non-elected species. See 37 CFR 1.142(b) and MPEP § 821.03.

4. In view of the amendments and species election, the prior reference Birchall et al. (US 3839078) has been withdrawn as a prior art of providing the composition of the anchor layer, Applicant's argument directed to Birchall in relation to the composition of the anchor layer is moot.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4, 6-19, 34-39, 42-45 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by applicants' admitted prior art, and evidenced by Birchall et al. (US 3839078).

Applicants have admitted in the specification that it is known art that flexible foam tapes are commonly used in flexographic printing, and these tapes, commonly referred to as foam cushion tapes, comprises a flexible compressible foam layer adhered to one side of a reinforcing film, with a second adhesive layer disposed on the opposite side of the film. An adhesive layer is furthermore disposed on the outside of the foam layer. The tapes are typically made in the thickness of 15 to 60 mil [specification, pages 1-2, bridging paragraph]. Regarding the materials and process of making the foam cushion tapes, Applicants also acknowledged that typically they are manufactured by laminating a cast foam layer, such as (polyethylene, ethylvinyl acetate, polyvinyl chloride, or polyurethane) to one side of a one-mil polyethylene terephthalate (PET) film (i.e., reinforcing layer) using an adhesive (first adhesive layer), and a second adhesive layer is disposed between the PET film and a release layer. It is known that, after use, the PET reinforcing film may delaminate from the foam during removal of the printing plate from a used tape (page 2, first full paragraph). Finally, applicants have admitted that polyethylene terephthalate films having a copolyester anchoring layer (inherently a polymer layer) are

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commercially available [specification, page 5, lines 7-8], such as the examples shown in Table 1: Mellinex 301H (manufacturer DuPont) and Weld Seal-30 (manufacturer Rockwell), etc.

For claims 1-3, 6, 10, 34 and 38, the acknowledged prior art discloses all the features as claimed. In particular, when one considers that it is common knowledge in the art of lamination to select a polyethylene terephthalate films having an anchoring layer to obtain an improved adhesion, i.e., to minimize delamination problem, as evidenced by the Birchall reference, in which Birchall teaches that it has been a common practice to coat a surface of a film substrate with one or more adhesion promoting anchoring layers which adhere to the film substrate and to which the superstrate readily adheres.

For claims 4 and 42, the Examiner's statement "the polyurethane foams used in flexographic printing are inherently open-celled" in the in the prior Office action dated 10/25/2002 is taken to be admitted prior art because Applicants failed to traverse the Examiner's assertion.

For claims 7, 35, 39, 43 and 49, Applicants have admitted in Table 1 that Mellinex 301H is a PET film coextruded with a copolyester layer.

For claims 8, 9, 11, 12 and 44, the Examiner notes that the common knowledge or well-known in the art statement "acid etching a polymer surface for improved adhesion, applying a primer layer between an adhesive layer and a foam substrate layer, and attach a release layer made of a release coating, an intermediate layer, and a liner to protect the adhesive layer are each common and well-known" in the prior Office action dated 10/25/2002, page 4, last full paragraph, is taken to be admitted prior art because Applicants have failed to traverse the Examiner's assertion.

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For claims 13-19, 36 and 37, it is noted that the claims are within the same scope of instantly claimed elements and limitations as claims 1-4 and 6-12. As such, they are also rejected for the same reasons as set forth above.

For claim 45, the admitted polymer or anchor layer reads on the primer layer as claimed.

7. Claims 40 and 41 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over applicants' admitted prior art, and evidenced by Birchall et al. (US 3839078).

The disclosure of applicants' admitted prior art are again relied upon, as set forth above.

For claims 40 and 41, while applicants' admitted prior art is silent about the thickness of the compressible foam layer, however, since the admitted prior art relates to the same subject matter and for the same use as the instant invention, a suitable thickness of the compressible foam layer is reasonably considered as being either anticipated by the prior art, or obviously provided by practicing the invention of prior art. See MPEP § 2112.01.

Response to Argument

8. Referring to the declaration by Mr. Kilhenny, Applicants argue [Remarks 3/30/2006, page 12, 1st paragraph] that the results show that an anchor layer formed from an isocyanate-terminated polyurethane, as set forth in Birchall, would not prevent separation of the reinforcing layer, and the results are unexpected. However, since the species of Birchall's isocyanate-terminated polyurethane is non-elected, and the composition of anchor layer taught by Birchall reference is no longer relied upon, as set forth above, applicants' argument directed to non-elected species is moot.

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Applicants argue [Remarks 3/30/2006, page 12, 2nd paragraph] that “film is formed by coextrusion”, as recited in claims 7 and 35, provided unexpected superior results. However, applicants’ admitted prior art does disclose a coextruded film of PET and anchor layer as claimed, as set forth above. The observed adhesion property is reasonably considered as an inherent property of a coextruded film, not unexpected results.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S. Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 8:30 - 5:00.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VSC
Victor S Chang
Examiner
Art Unit 1771

8/25/2006


TERREL MORRIS
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